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09/909,014	07/20/2001	Emanuel S. Kemeny		9116

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EXAMINER

WEINSTEIN, STEVEN L

ART UNIT PAPER NUMBER

1761

DATE MAILED: 01/15/2003

16

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

09/09/04

Applicant(s)

KEMENY

Examiner

WEINSTEIN

Group Art Unit

1761

—The MAILING DATE of this communication appears on the cover sheet beneath the correspondence address—

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, such period shall, by default, expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- ☒ Responsive to communication(s) filed on 9/23/02
- ☐ This action is FINAL.
- ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

## Disposition of Claims

- ☒ Claim(s) 1-15 is/are pending in the application.
- Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- ☒ Claim(s) 1-15 is/are rejected.
- ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- ☐ Claim(s) \_\_\_\_\_ are subject to restriction or election requirement

## Application Papers

- ☐ The proposed drawing correction, filed on \_\_\_\_\_ is ☐ approved ☐ disapproved.
- ☐ The drawing(s) filed on \_\_\_\_\_ is/are objected to by the Examiner
- ☐ The specification is objected to by the Examiner.
- ☐ The oath or declaration is objected to by the Examiner.

## Priority under 35 U.S.C. § 119 (a)-(d)

- ☐ Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119 (a)-(d).
- ☐ All ☐ Some\* ☐ None of the:
  - ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_
  - ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a))

\*Certified copies not received: \_\_\_\_\_

## Attachment(s)

- ☐ Information Disclosure Statement(s), PTO-1449, Paper No(s). \_\_\_\_\_
- ☐ Interview Summary, PTO-413
- ☐ Notice of Reference(s) Cited, PTO-892
- ☐ Notice of Informal Patent Application, PTO-152
- ☐ Notice of Draftsperson's Patent Drawing Review, PTO-948
- ☐ Other \_\_\_\_\_

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The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

Claims 1-15 are rejected under 35USC112, first paragraph as being non-enabling, essentially for the reasons given in the last Office action mailed 8/19/02, paper no. 14.

The question previously asked was what is a meal equivalent bar, what does "equivalent" to appetizer, main course, or dessert mean, and how does the various portions, i.e. appetizer, main-course, dessert, differ from each other? in fact, claims such as claim 12 do not even clearly recite that the segments are individually separate courses for the same meal. Stating the question(s) somewhat differently, what makes the appetizer an appetizer, etc.? This is important to clarify the claim language, and, if necessary, the specification (if no New Matter is involved) so that one would know what is infringing the claim(s). Applicant has responded in the amendment filed 9/23/02, paper no. 15, and has urged that each segment of a meal-equivalent bar would differ in flavor. Applicant does not, however, amend the claims to incorporate this concept nor does applicant point out where in the specification, it is disclosed that each segment of the meal equivalent bar which represents respectively one course of a complete meal is flavored to impart the taste of that course. Where in the specification is this concept taught? As disclosed, the only significant difference between any of the course segments appears to be that the appetizer segment contains a stimulant and the dessert contains an appetite depressant. However, as noted in paper no. 14, a food associated as a dessert or even a food associated as an appetizer could have constituents which include both stimulants and depressants (e.g. fats and

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fiber). Note, too, as disclosed, the bar, all of the bar, appears to be characterized as a oat soy protein containing baked dough wherein each segment differs in flavor (if supported by the specification) of the specific course it represents. To expedite prosecution, applicant should review all of the claims to at least clarify what the segments represent. For example, in claim 1, language such as wherein each segment corresponds to a single course of said courses, respectively and wherein, said segment corresponding to said appetizer contains the appetizer ingredients and includes one or more appetite stimulants... etc. That is, as disclosed, each segment represents only one course of a plural course meal.

Upon reconsideration, the following rejection is made.

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-15 are rejected under 35 U.S.C. 103(a) as being unpatentable over Snyder (G.B. 4093) in view of Deane (GB 11,608), further in view of Klatz ('833), Schafer et al ('253) and DeBryun et al (BE 1009616).

In regard to claim 1, Snyder discloses a bar (as defined<sup>n</sup> by applicant) which is one or more segments of edible material which in the case of Snyder are separated from each other but nevertheless provide different types of foods as part of a whole meal. For example, Snyder discloses a boiled hash product, apples, bread and tea ("Seventh Meal"-page 5). Deane also teaches various components or courses ("a substantial meal of separate dishes or courses" -page 1). Once it is known to provide the courses or constituents for a meal, the particular

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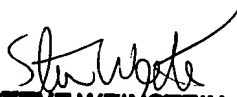
conventional ingredients one selects is seen to have been an obvious matter of choice. Klatz is relied on as further evidence of food bars and that food bars can be frangibly segmented or completely separated (col. 2, para. 6) and that the bars can vary in their individual parts. Schafer et al is relied on as further evidence of the conventionality of food bars. Note that Schafer teaches a bar can be eaten directly or processed before eating as desired. Finally, DeBryun et al is also relied on as further evidence of multi-segmented, multi-ingredient foodstuff bars. The examiner will attempt to obtain a full copy and complete translation of this abstract. The remainder of the claims are recited for the reasons given above.

Any inquiry concerning this communication from the examiner should be directed to Steven Weinstein whose telephone number is 703 308-0650. The examiner can generally be reached on Monday-Friday from 7:00 a.m. to 3:30 p.m..

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Milton Cano can be reached on 703 308-3959. The fax phone numbers for the organization where this application is assigned are 703 872-9310 for regular communications and 703 872-9311 for After Final communications.

Any inquiry of a general nature or relating to the status of this application should be directed to the receptionist whose telephone number is 703 308-0661.

Examiner Weinstein/ng  
January 8, 2003

  
**STEVE WEINSTEIN**  
**PRIMARY EXAMINER**

1/14/03

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